Department:	Pharmacy Management	**Original Approval:**	10/26/2006
Policy No:	PM557	**Last Approval:**	02/28/2022
Policy Title:	Fraud, Waste, and Abuse Program Policy		
Approved By:	CMO Cabinet		
Dependencies:	CO289 – Fraud, Waste and Abuse Policy		

Purpose

This policy describes Community Health Plan of Washington's (CHPW's) fraud, waste and abuse (FWA) program for Medicare Part D.

Policy

It is CHPW's policy to comply with all applicable statutory, regulatory, and other Part D program requirements related to the delivery of the Medicare Part- D benefits and to ensure its pharmacy benefit manager (PBM) is in compliance with all applicable laws, rules and regulations with respect to any Part D delegated activities. CHPW is committed to detect, prevent and control fraud, waste and abuse among pharmacies, prescribers and members.

Definitions

Fraud

1. A deception or misrepresentation by a provider, beneficiary, sponsor, or any person acting on behalf of a provider, sponsor, or beneficiary with the knowledge (or who had reason to know or should have known) that the deception or misrepresentation could result in some unauthorized Part-D benefit to self or some other person, or some unauthorized Part-D payments; or
2. A claim that is false or fictitious, or includes or is supported by any written statement which asserts a material fact which is false or fictitious, or includes or is supported by any written statement that:

Omits a material fact; and

Is false or fictitious as a result of such omission; and

Is a statement in which the person making, presenting, or submitting such statement has a duty to include such material fact. It is presumed that, if a deception or misrepresentation is established and a Part-D claim is filed, the person responsible for the claim had the requisite

knowledge. This presumption is rebuttable only by substantial evidence. It is further presumed that the provider of the services is responsible for the actions of all individuals who file a claim on behalf of the provider (for example, billing clerks); this presumption may only be rebutted by clear and convincing evidence; or

3. Any act that constitutes fraud under applicable Federal or State Law.

Waste

1. The extravagant careless or needless expenditure of Government funds or the consumption of Government property that results from deficient practices, systems, controls, or decisions. The term "waste" also includes improper practices not involving prosecutable fraud.

Abuse

1. Any practice that is inconsistent with accepted sound fiscal, business, or professional practice which results in a claim, unnecessary costs, or payment for services or supplies that:

    A. Are not within the concepts of medically necessary and appropriate care as defined by CMS or

Fail to meet professionally recognized standards for health care providers.

2. The term "abuse" includes deception or misrepresentation by a provider, or any person or entity acting on behalf of a provider in relation to a Part-D claim. A pattern of inappropriate practice will normally be required to find that abuse has occurred unless a specific action is deemed gross and flagrant.

Process

CHPW's pharmacy benefit manager (PBM) complies with CMS's FWA training requirements as stated in the PBM's Fraud, Waste, and Abuse Training.

CHPW partners with its PBM in implementing the FWA program for Part D. Table 1 lists the activities of the FWA program.

Table 1: FWA Program Activities and Ownership

Activities	Performed by CHPW	Performed by PBM
Detection of pharmacies, prescribers (physicians, dentists, physician assistants, and nurse practitioners), and members with an unusual or excessive utilization pattern via data mining	X	X
Appropriate corrective actions against pharmacies related to over-or under-payment		X

Denial of claims for prescriptions written by Excluded Providers on the Health and Human Services (HHS) Office of Inspector General/General Services Administration lists		X
Notify members regarding denial of payment for prescriptions written by Excluded Providers on the Health and Human Services (HHS) Office of Inspector General/General Services Administration lists	X	
Review of quarterly reports that include pharmacy audit results	X	
Analyze data that identifies prescribers and members with an unusual or excessive utilization pattern	X	
Investigate prescribers and members with unusual or excessive utilization patterns via review of medication profiles	X	

Detection

The PBM uses four methods to audit and subsequently detect pharmacies with an unusual or excessive utilization pattern.

1. **Continuous Automated Review**
    - Adjudicated claims from previous days are reviewed for a multitude of dispensing indicators, including average claim amounts, quantity vs. days' supply submission, generic/brand fill rates, proper use of DAW codes, and other variables.
    - To identify and rank pharmacies based on dispensing indicators for initial fill and recurring refills.
    - Conduct review of pharmacies based on this initial analysis.
    - Results are logged and reviewed for problem trends and potential escalation treatment.
    - Claims are reviewed and corrected prior to pharmacy payment and plan sponsor billing.
2. **Desk Audits**

When unusual patterns are identified at a particular pharmacy, the auditors:

- Compile a list of possible suspect claims.
- Request the supporting documentation for suspect claims from the pharmacy.
    - Supporting documentation include the front and back copy of the original prescription and copies of signature logs signed by beneficiaries.

Pharmacies may be selected for a desk audit by referral from other ESI departments or plan sponsor requests.

If the audit results in financial recovery, the amount is returned to CHPW.

3. Field Audits

The on-site audit process includes a detailed review of claims and quality assurance documentation performed on-site at the network pharmacy location. Network pharmacies are identified for field audits via

- Risk Assessment Protocol programs,
- Referrals (tips),
- Data previously reviewed deemed unreliable, and
- Next Day Desk/Phone Audits or a Historical Desk/Phone Audits indicate a pattern of errors, necessitating a review of a large amount of prescription documentation.

The audit includes verification that pharmacies are posting or distributing the "Medicare Prescription Drug Coverage and Your Rights" Pharmacy Notice (CMS-10147).

4. Investigative Audits

In this type of audit, the auditors go directly to the source of the necessary documentation rather than auditing the pharmacy. The scope includes, but is not limited to, the following:

- Inventory purchase verification,
- Physician and member audits,
- Review of medication destruction records, and
- Pharmacy trending analysis.

Member and Prescriber Analysis

The PBM uses its data mining programs; fraud, waste, and abuse detection software; and special reports to allow a qualified reviewer to determine whether the member's drug usage patterns are appropriate for their recorded diagnoses and prescribed therapies. Physicians whose prescribing patterns present an appearance of possible fraud, waste, or abuse are identified in the same way.

CHPW's Pharmacy department analyzes the reports and responds accordingly:

- If members are suspected of prescription diversion or physician shopping for narcotics, the members' prescribers are contacted to notify them of potential fraudulent activity.
- Medication claims of identified prescribers are reviewed to determine if fraudulent activities, such as script milling, have been perpetrated.
- When fraudulent activity is substantiated, the CHPW Pharmacy department will initiate appropriate corrective action and institute systematic changes to prevent similar violations from occurring. If it is determined that a violation of the Medicare

Part D program has occurred, the CHPW Pharmacy department will notify its Compliance Officer and FWA Program Manager who takes appropriate actions including, but not limited to, notifying the Medicare Drug Integrity Contractors (MEDICs) Health Integrity (HI) for fraud, waste, and abuse issues and MEDIC SafeGuard Services (SGS) for compliance and enforcement activities within 60 days of detecting the violation.

Overpayment and Underpayment

When there is an over- or underpayment identified via various audit methods described above, PBM will work directly with affected pharmacies to initiate claim reversal and reprocessing. Claim reversal and reprocessing details will be found within the claim detail on the first billing cycle of each month.

PBM Oversight

The following are performed by the CHPW Pharmacy department:

- Review and analyze the quarterly reports produced by the PBM.
- Review the PBM's FWA program annually to ensure full compliance with Part D requirements including, but not limited to, training and education related to FWA
- Annual monitoring to ensure that claims are denied for prescriptions written by HHS Excluded Providers.
- CHPW complies with law enforcement, CMS, and CMS' designee requests to monitor providers within their network that CMS has viewed as potentially abusive or fraudulent.
- In the event that the PBM or its employees violates the application rules regarding OIG/GSA checks, CHPW may take immediate corrective action

Review and analyze the quarterly reports produced by CMS. Any findings by the clinical pharmacists will be distributed to the CHPW Compliance department.

List of Appendices

A. Detailed Revision History

Citations & References

CFR	42 CFR § 423.504(B)(4)(VI)(G) 42 CFR § 438.608(A)(1)(VII)
WAC	
RCW	

LOB / Contract Citation	☐ **WAHIMC**	
	☐ **BHSO**	
	☒ **MA**	Prescription Drug Benefit Manual Chapter 9
	☐ **CS**	
Other Requirements		
NCQA Elements	CR 5; MA 18	

Revision History

SME Review:	10/26/2006; 11/13/2007; 07/01/2008; 01/13/2009; 08/05/2009; 09/11/2009; 04/21/2010; 03/28/2011; 04/19/2011; 03/26/2012; 02/21/2013; 03/24/2014; 04/13/2015; 03/15/2016; 03/01/2017; 03/02/2018; 03/12/2019; 02/27/2020; 02/22/2021; 02/02/2022
Approval:	09/09/2009; 04/30/2010; 05/25/2011; 04/04/2012; 04/19/2013; 04/23/2014; 03/18/2016; 03/14/2017; 03/13/2018; 03/13/2019; 03/06/2020; 03/02/2021; 02/28/2022

Appendix A: Detailed Revision History

Revision Date	Revision Description	Revision Made By
10/26/2006	Original	Pharmacy Mgmt
11/13/2007	Minor formatting changes	Eric Guyette
07/01/2008	Minor formatting changes	Rachel Koh
01/13/2009	Review for style and formatting	Sunny Otake
08/05/2009	Content Update	Jennifer Mui
09/09/2009	Approval	MMLT
09/11/2009	Review for style and formatting	Jennifer Carlisle
04/21/2010	Content Update	Maria Chan
04/30/2010	Approval	MMLT
03/28/2011	Content Update	Rachel Koh
04/19/2011	Content Update	Maria Chan
05/25/2011	Approval	MMLT
03/26/2012	Review and no change	Maria Chan
04/04/2012	Approval	MMLT
02/21/2013	Content update	Maria Chan
04/19/2013	Approval	MMLT
03/24/2014	Review with minor changes	Annie Lam
04/23/2014	Approval	MMLT
04/13/2015	Changes, and formatting changes	Nonye Connor
04/23/2015	Approval	MMLT
03/15/2016	Review and no changes	Mary Eckhart
03/18/2016	Approval	MMLT
03/01/2017	Moved to new template. Minor content update.	Mary Eckhart
03/14/2017	Approval	MMLT
03/02/2018	Moved to new template.	Mary Eckhart
03/13/2018	Approval	MMLT
03/12/2019	Reviewed, no changes	Dustin Peskuric
03/13/2019	Approval	MMLT
02/27/2020	Updated Citations Table	Dustin Peskuric
02/27/2020	Reviewed, minimal changes.	Ivan Figueira
02/28/2020	Reviewed and approved	Omar Daoud
03/02/2020	Department Approval	Yusuf Rashid
03/06/2020	Approval	CMO Cabinet
02/22/2021	Reviewed. No Changes	Omar Daoud

03/01/2021	Approval	Yusuf Rashid
03/02/2021	Approval	CMO Cabinet
02/02/2022	Reviewed with no changes, Department approval.	Omar Daoud
02/28/2022	Approval	CMO Cabinet